

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : **07 CR. 752 (RPP)**

- v - : -----

**CARLOS DONINELLI,** : -----

Defendant. : -----

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**DECLARATION OF CARLOS DONINELLI**

I, CARLOS DONINELLI, hereby declare under the penalties of perjury, pursuant to 28 U.S.C. § 1746, that:

1. I am the defendant in the above captioned criminal case, and I make this declaration in support of a motion pursuant to Rules 12(b)(3) and 41 of the Federal Rules of Criminal Procedure to suppress physical evidence obtained from me by law enforcement authorities in violation of my constitutional rights. Since the only purpose of this declaration is to show that my constitutional rights were violated, I have not included every detail of what occurred.
2. On the morning of July 3, 2007, several New York Police Department officers entered my apartment at 1680 Crotona Park East, Apartment 1D, Bronx, New York. It is my understanding that they entered pursuant to a New York State search warrant that authorized them to search for guns and drugs. Upon entering the apartment, the police placed me and two other occupants of the apartment in handcuffs while they searched

throughout the apartment. The search revealed no contraband.

3. While in my apartment, the police found two sets of car keys and asked me if I owned a car. I said yes and told them I owned a green van that was parked outside. In fact, I owned two vans that were parked outside -- a green van and a white van. I did not mention anything about the white van because I knew it contained two guns, and I did not want the police to find them. I did not consent to a search of either van, and I did not tell the officers that there were guns or any other contraband located in the white van.
4. While I was still in my apartment in handcuffs, the police searched both vans using the keys they found in the apartment. It is my understanding that the police identified the white van parked in front of the building as mine by speaking with a neighbor familiar with my vans who was standing outside of the building and by using the remote alarm control device on the keychain.
5. After finding two guns in my white van, the police took me out of the apartment and down to the police station. At the police station, I admitted that the guns found in the van belonged to me. At the police officers' request, I also signed a "Consent to Search" form. At the time I signed it, the form was blank with respect to the premises to be searched. In the discovery produced by the Government since that time, I have seen that the police scratched out the word "premises" and wrote in the word "vehicles" together with the location of my vans. When I signed the form, those changes had not been made to the form. At no time did I ever give consent to search either van.
6. I am the owner of the white van wherein the two guns at issue in this case were found. I had an expectation of privacy in its contents, and at no time did I give anyone consent to search it.

Dated: Brooklyn, New York  
October 12, 2007



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CARLOS DONINELLI